



**US Army Corps  
of Engineers®**

## **SPECIAL PUBLIC NOTICE**

**REGULATORY BRANCH, LOS ANGELES DISTRICT  
PROPOSAL FOR REGIONAL GENERAL PERMIT  
FOR BEACH NOURISHMENT PROJECTS**

*LOS ANGELES DISTRICT*

**Public Notice/Application No.:** 200401896-JLB

**Comment Period:** November 8<sup>th</sup>, 2004 to December 22<sup>nd</sup>, 2004 (45 Days)

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**Proponent**

Regulatory Branch, Los Angeles District, USACE

Contact: Joshua L. Burnam

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Email: Joshua.L.Burnam@usace.army.mil

**Geographic Area**

The proposed RGP covers beach nourishment activities involving discharges of dredged or upland source material on the coastline within the Los Angeles District.

**Activity**

The Regulatory Branch, Los Angeles District ("LAD") proposes to streamline the Regulatory procedures in place for permitting of beach nourishment activities subject to the Corps' authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act within LAD. The Corps recognizes beach nourishment as necessary to address sediment deficits and coastal erosion on our local beaches, and beach nourishment projects provide an opportunity for beneficial reuse of dredged material in concert with State policies and the Corps' program for Regional Sediment Management (RSM).

Currently, beach nourishment activities derive material from dredge projects, and from upland sources. LAD seeks to streamline the Regulatory framework and standardize Special Conditions ("Conditions") across the District, thereby protecting aquatic resources and simultaneously decreasing the processing time for projects meeting the requirements for authorized projects presented later in this Public Notice. LAD proposes to establish this RGP whereby projects meeting the Conditions may proceed under a Notice to Proceed, and all other projects, or those involving substantial resource issues and/or comments from agencies would require a Standard Individual Permit.

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Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Branch  
ATTN: CESPL-XXXX  
P.O. Box 532711  
Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: [Joshua.L.Burnam@usace.army.mil](mailto:Joshua.L.Burnam@usace.army.mil)

## **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

## **Preliminary Review of Selected Factors**

**EIS Determination-** A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

**Water Quality-** A 401 Water Quality Certification would be required from the State Water Resources Control Board ("SWRCB") prior to the issuance of any permit.

**Coastal Zone Management-** The Corps proposes that any beach nourishment activity later pursued pursuant to this RGP would require Coastal Consistency Certification from the California Coastal Commission.

**Cultural Resources-** The latest version of the National Register of Historic Places would be consulted prior to any discharge. In addition, an archaeological records search will be required. If the Corps determines there are sites eligible for listing in the National Register of Historic Places located within our scope of analysis for any proposed discharge, we will then initiate consultation with the State Historic Preservation Officer pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

**Endangered Species-** The California least tern, *Sterna antillarum browni*, and the California brown pelican, *Pelecanus occidentalis californianus*, may use areas within the vicinity of proposed discharges, and the need for consultations pursuant to Section 7 of the Endangered Species Act would need to be evaluated. However, project activities generally would consist of temporary placements of fill on beach sites as opportunities occur, which would produce short term increases in turbidity in the project vicinity. Turbidity would be expected to return to baseline immediately following discharge activities. Therefore, water quality impacts would be short-term and less than significant and would not affect foraging opportunities for either species. Additionally, it is not expected that temporary turbidity increases would effect prey populations supporting the species. Therefore, the Corps has preliminarily determined that the proposed RGP is not likely to adversely to affect either species. To ensure compliance with the ESA, the Corps would make more detailed

project-specific determinations of effect and the need for conditions, such as seasonal restrictions, on a case-by-case basis and include that information in a PCN transmittal.

The Western snowy plover, *Charadrius alexandrinus nivosus*, a federal listed species, is a resident to southern California. The plover nests typically in flat, open areas with sandy or saline substrates. Snowy plovers forage on invertebrates in the wet sand and amongst the surf-cast kelp within the inter-tidal zone; in the dry, sandy areas above the high tide; on salt pans; and along the edges of salt marshes and salt ponds. Snowy plovers typically forage in areas with little or no human activity; plovers generally avoid areas of high activity, especially where human use is relatively high. As project beaches are routinely maintained by earth-moving equipment and supports relatively high recreational use, the potential impact area is not expected (or not known) to support foraging habitat for the Western snowy plover. Therefore, the Corps has preliminarily determined that the proposed RGP is not likely to adversely affect the plover. To ensure compliance with the ESA, the Corps would make more detailed project-specific determinations of effect and the need for conditions, such as seasonal restrictions, on a case-by-case basis and include that information in a PCN transmittal.

The tidewater goby, *Eucyclogobius newberryi*, a fish that occurs in tidal streams associated with coastal wetlands in California, is not expected to be impacted by any short-term increases in turbidity which would result from proposed discharges. Therefore, preliminary determinations indicate that project activities would have no effect on the goby. To ensure compliance with the ESA, the Corps would make more detailed project-specific determinations for each proposed use of the RGP and include that information in a PCN transmittal.

With this Public Notice, the Corps hereby requests concurrence or non-concurrence with the above determinations from the USFWS and NOAA Fisheries.

**Magnuson-Stevens Fishery Conservation and Management Act (MSECFMA) - Essential Fish Habitat (EFH):** EFH determinations would be made on a case by case basis and would depend on the results of a require Special Aquatic Site ("SAS") survey for the project area. Surveys would be designed to identify the habitat types immediately adjacent and downcoast of the proposed discharge, as well as delineate any SASs with potential to be impacted by the proposed discharge, such as eelgrass beds. A plan would be required for pre- and post-project monitoring for potential affects to SASs, if any are determined to exist in the project area. Proposed activities could result in adverse impacts to EFH at the disposal sites, namely resulting from habitat and species burial due to sediment deposition. With respect to turbidity, most aquatic organisms are able to cope with the predicted fluctuations. For example, motile organisms, such as fishes, generally will avoid the turbidity plumes. However, some organisms are not able to easily adapt to increased turbidity, for example, light sensitive resources. Light sensitive resources typically include high relief reef and low relief vegetated reefs, with indicator species including giant and feather boa kelp, large sea fans, sea palms, and surf-grass. While these resources may be present offshore of proposed discharge sites, it is not likely that proposed projects would decrease light passage through the water column more than would naturally occurring storms. Consequently, project-associated turbidity should not adversely affect these biological resources. In addition to inhibiting light, turbidity and deposition result in the physical burial of benthic species and habitat. Monitoring data from the Ponto Beach discharge in 1998 ((University of Southern California (USC) & California Department of Boating and Waterways (CDBW), *The Fate of Fine Sediments In A Suspension Plume: Ponto Beach, California: A Report of Findings*, April 1998), for 10,000 cy of sediment with 18% fines discharged directly into the surf-zone indicated that only a fine layer of sediment covered the bottom floor. Based on these results, the proposed discharges may result in a small amount of burial, typically less than an inch, over the inter- and sub-tidal floor. Buried habitat would be recolonized rapidly (weeks to a few years depending on habitat type). Mitigation pursuant to the Southern California Eelgrass Mitigation Policy may be required if eelgrass beds are located offshore and/or downcoast of the site and subsequent monitoring determines there has been an adverse effect on the bed. Therefore, the Corps has preliminarily determined that discharges pursuant to the proposed discharge would not adversely affect EFH. The Corps would make more detailed project-specific determinations for each proposed use of the RGP and include that information in a PCN transmittal, including

the results of required pre-project SAS surveys (required for a complete application).

**Grunion Fishery:** The grunion, *Leuresthes tenuis*, is a local species known to occur predominantly along the southern California coast. Grunion will use sandy beaches for spawning, between late March and early September. As construction could overlap with grunion activity, pre-project surveys would be conducted to identify beach suitability for grunion activity. Based on the survey findings, appropriate measures would be taken, if necessary, to avoid impacts on the grunion spawn. As such, the proposed RGP would not be predicted to affect spawning activities.

**Commercial/Recreational Fishery Concerns: Lobster.** Regionally, lobster is the most important commercial species in terms of value and one of the top species hunted for by recreational divers. Although project impacts are not predicted to have direct impacts on the fisheries, it could have indirect impacts if surfgrass or hard-bottom habitat is impacted. Juvenile lobster use the near-shore environment for one to two years; they are dependent upon the surfgrass and hard-bottom reef habitats as a nursery area and a refuge from predation. Consequently, the effects of the beach nourishment activities could affect the overall success of juvenile lobsters. However, as indicated above, impacts to EFH resources are expected to be minimal.

**Public Hearing-** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

#### **Proposed Activity for Which a Permit is Required**

The Regulatory Branch, Los Angeles District (“LAD”) proposes to streamline the Regulatory procedures in place for permitting of beach nourishment activities subject to the Corps’ authority under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act within LAD. The Corps recognizes beach nourishment as necessary to address sediment deficits and coastal erosion on our local beaches, and a need to provide an opportunity for beneficial reuse of dredged material in concert with State policies and the Corps’ program for Regional Sediment Management (RSM).

Currently, beach nourishment activities derive material from dredge projects, and from upland sources. LAD seeks to streamline the Regulatory framework and standardize Special Conditions (“Conditions”) across the District, thereby protecting aquatic resources and simultaneously decreasing the processing time for projects meeting the requirements for authorized projects presented later in this Public Notice. LAD proposes to establish this RGP whereby projects meeting the Conditions may proceed under a Notice to Proceed, and all other projects, or those involving substantial resource issues and/or comments from agencies would require a Standard Individual Permit.

#### **Additional Project Information**

The RGP is designed to obtain fill from upland construction or dredging projects in the region and place it on local beaches for nourishment purposes. In order to qualify for the RGP and subsequent issuance of a Notice to Proceed, an applicant would be required to submit the following information as part of a complete application:

- 1) A Draft Sampling and Analysis Plan (SAP) for Tiered testing pursuant to the Inland Testing Manual (ITM). The SAP would be reviewed and approved by the Corps of Engineers and be reviewed by the US EPA. The SAP would address tiered testing requirements and sieve analyses. The applicant would be required to examine the source material (upland or dredged) and the receiving beach. In some cases, for dredging projects, the source material may have been separately surveyed as part of a separate 404/10 authorization for the dredging project itself.

- 2) The applicant would need to address the aesthetic qualities of the proposed discharge material, and compare those qualities to the receiving beach in a qualitative fashion.
- 3) A Draft Special Aquatic Site Survey (SAS Survey), including a pre- and post-project monitoring plan and proposal for mitigation for any SAS impacts in the vicinity. The survey would be required to identify the habitat types immediately adjacent and downcoast of the proposed discharge, as well as delineate any SASs with potential to be impacted by the proposed discharge, if any. For purposes of this RGP, SASs are defined to include eelgrass beds, high-relief reef and low-relief vegetated reefs, with indicator species including giant and feather boa kelp, large sea fans, sea palms, and surf-grass. The plan would also contain proposed pre- and post-project monitoring procedures to monitor potential effects to SASs, if any exist in the project area. The SAP would be subject to review and comment from the Corps of Engineers, NOAA Fisheries, and the appropriate Regional Water Board if any SAS is located within the project vicinity.
- 4) Sediment Budget analysis. The applicant would be required to demonstrate the need for placement of the beach nourishment material at the location proposed based on (1) pre-project sediment budget analysis or (2) known sediment budget data for the receiving beach from a reasonably recent study. The applicant should be able to demonstrate a net loss of sediment deposition over the project area, and thus that local beach profiles reflect these conditions and show the effects of erosion.

Were any adverse impacts to EFH or threatened or endangered species to be identified, the Corps would initiate the required consultations with the resource agencies. If, based on the results of the above requirements, and any required consultations, a project were found to:

- Meet the Corps District Policy for beach nourishment grain size compatibility of materials comprised of at least 75% sand and less than 10% sand difference from the receiving beach;
- Test clean per the requirements of the ITM, or be categorically excluded from testing according to the 40 CFR exclusions;
- Have no negative aesthetic impact on the receiving beach;
- Not adversely impact any SAS and/or provide adequate mitigation and post-project monitoring to address such impacts in consultation with NOAA Fisheries;
- Not affect any Federally listed threatened or endangered species, or affect but not adversely affect such a species in consultation with the US Fish and Wildlife Service;
- Prove a need for the discharge with sediment budget analyses;
- Meet any additional data needs requested by the agencies concerning upland source material;

the project would then qualify for the RGP. The Corps would prepare a PCN transmittal containing detailed information pursuant to the list above, and this transmittal would be provided to: the California Coastal Commission; State Department of Fish and Game; State Water Resources Control Board; US EPA; NOAA Fisheries, and US FWS. Once 401 Certification (if required) and CCC consistency certification were received, the Corps would issue a final NTP for the discharge.

Projects not meeting the above criteria would be required to submit an application for a Standard Individual Permit.

#### **Proposed Special Conditions-**

- 1) Discharges of fill material into waters of the U.S. authorized in this permit shall be limited to the volume and grain size distribution specified on a case-by-case basis. No discharge of fill material into waters of the U.S. is authorized for any single proposed project until the Corps has provided a Final NTP according to the requirements below.
  - a. The applicant is required to submit to the Corps and the US EPA and receive written approval from the Corps for a sampling and analysis plan (SAP) for each proposed use of this permit. The SAP will be in accordance with standard ITM tiered testing procedures and will include testing at the source and proposed discharge site (one of the sites approved under this permit). The SAP would also address sieve analysis.
  - b. The results of the SAP will be submitted to the Corps, EPA, and appropriate Regional Water Board for review and approval.
- 2) If source material is to be dredged from Section 10 waters of the U.S., separate authorization under Sections 10 and/or 404 of the Clean water Act will be required. If source material is to be dredged/excavated from non-Section 10 waters of the U.S., separate authorization under Section 404 of the Clean water Act may be required.
- 3) Materials derived from upland sources must be discharged in the surf-zone, subject to other applicable restrictions (location, timing).
- 4) A Draft Special Aquatic Site Survey (SAS Survey) including a detailed, pre- and post-project monitoring and mitigation plan for impacts as required will be submitted for Corps review and approval at least 30 days prior to work in waters of the U.S. No work in waters of the U.S. is authorized until the permittee receives written approval of the plan from the Corps. The plan shall identify monitoring and reporting protocol to evaluate potential changes in turbidity/sedimentation, water quality, and/or biology within the proposed discharge site and the adjacent offshore area., and contingency operations in the event such changes are detected.
- 5) A detailed discussion of the aesthetic qualities of the proposed discharge.
- 6) A detailed sediment budget analysis based on (1) pre-project sediment budget analysis or (2) known sediment budget data for the receiving beach from a reasonably recent study. The applicant should be able to demonstrate a net loss of sediment deposition over the project area, and thus that local beach profiles reflect these conditions and show the effects of erosion.
- 7) A detailed description of the transport and discharge operations authorized by this permit will be submitted to the Corps at least 30 days prior to work in waters of the U.S. Description of the transport and discharge operations should include, at a minimum, the following:
  - a. Transport and discharge procedures for all sediment, including all material unsuitable for beach nourishment discharge.
  - b. A schedule showing when the beach nourishment project is planned to begin and end.
  - c. A debris management plan to prevent disposal of large debris at all discharge locations. The debris management plan shall include: sources and expected types of debris, debris separation and retrieval methods, and debris disposal methods.
  - d. The plan shall include the volume of material to be excavated and discharged.

- e. The plan shall list the applicant's previous discharges by site, date, and volume, as well as the total volume of material which has been excavated and discharged to date, using this Regional General Permit.

Once the Corps has received the information required in Special Conditions 1 through 6 above, verified compliance with the terms and conditions, and completed any required consultations for adverse impacts to EFH or effects to ESA, the Corps would prepare an NTP transmittal letter as described above.

**Post-discharge Conditions:**

- 8) If a violation of any permit condition occurs during discharge operations, the permittee shall report such violations to the Los Angeles District's Regulatory Branch and the appropriate Regional Water Board within twenty-four (24) hours after the violation occurs. If the permittee retains any contractors to perform any activity authorized by this permit or to monitor compliance with this permit, the permittee shall instruct all such contractors that notice of any permit violations must be provided to the permittee immediately so the permittee can report the violation as required.
- 9) The permittee shall send one (1) copy a post-discharge report to the Los Angeles District's Regulatory Branch and the appropriate Regional Water Board documenting compliance with all general and special conditions defined in this permit. The post-discharge report shall be sent within 30 days after completion of the discharge operations authorized in this permit. The report shall include:
  - a. All information collected by the permittee as required by the special conditions of this permit. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail.
  - b. The post-discharge report shall include the following information:
    - i. Corps permit number.
    - ii. Identify source of material
    - iii. Total cubic yards disposed at each discharge site.
    - iv. Modes of transportation and discharge.
    - v. Form of discharged material and percent sand, silt and clay in the dredged material.
    - vi. Actual start date and completion date of transport and discharge operations.
    - vii. Monitoring results.
- 10) The applicant will submit the results of post-project monitoring, as required, within 30 days of the discharge. Based on pre- and post-project monitoring results, the Corps will determine the level of impact and if additional resource monitoring is warranted. If additional monitoring is required, the Corps will notify the permittee of this requirement and the permittee shall submit a supplemental monitoring plan for Corps review and approval within 30 days of notification by the Corps and shall conduct the additional monitoring as approved. If the Corps determines no impacts, the monitoring program may be terminated at that time. If additional monitoring is required, the conditions of the original monitoring plan remain in effect until the supplemental plan is completed.
- 11) This permit does not authorize significant impacts to aquatic resources. Based on pre- and post-project monitoring results, the Corps will determine if impacts to aquatic resources have occurred and if mitigation is required. Any required mitigation would be the responsibility of the applicant and failure to implement Corps-specified mitigation would result in enforcement proceedings.
- 12) The applicant will implement all standard BMPs.

13) The applicant will establish a safety flag perimeter of the beach nourishment area during disposal activities, and monitor the premises to protect the general public from construction hazards and equipment.

14) No maintenance, storage, or fueling of heavy tracked equipment or vehicles will occur within 500 feet of the high tide line of waters of the US.

For additional information please call Joshua L. Burnam of my staff at (213) 452-3294. This public notice is issued by the Chief, Regulatory Branch.

**From:** Ruben Guieb  
**To:** Burnam, Joshua L SPL  
**Date:** 11/8/04 2:08PM  
**Subject:** Re: New Public Notice~Special Public Notice to establish a Regional General Permit for Beach Nourishment

Hi Josh,  
Great you got the PN out. What's the status on Mitigated Negative Declaration/FONSI for this general permit?

Thanks  
-ruben-

>>> Regulatory SPL SPL <Regulatory.SPL@spl01.usace.army.mil> 11/08/04 01:55PM >>>

United States Army Corps of Engineers  
Los Angeles District Regulatory Branch

The following public notice can be viewed on the link provided below:

<http://www.spl.usace.army.mil/regulatory/pn/200401896.pdf>  
<<http://www.spl.usace.army.mil/regulatory/pn/200401896.pdf>>

Project: Special Public Notice to establish a Regional General Permit for Beach Nourishment Utilizing Dredged or Upland Source Fill Materials

Waterbody: LAD Coastal Areas

City: LAD

County: LAD

Comment Period: November 8, 2004 - December 22, 2004 (45 Day)

File Number: 200401896-JLB

To contact the Los Angeles District Regulatory Branch concerning this project, please call Joshua Burnam at (213) 452-3294 or email at:  
[joshua.l.burnam@usace.army.mil](mailto:joshua.l.burnam@usace.army.mil) <<mailto:joshua.l.burnam@usace.army.mil>>

**CC:** Balaguer, Oscar